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Jonathan Hill
Commissioner
Financial Stability, Financial Services & Capital Markets Union
European Commission

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By email: Jonathan.Hill@ec.europa.eu

Dear Commissioner Hill

Re: MiFID II/MiFIR RTS 23 – ISIN as sole identifier option for reference data

FIA and its members support the policy objectives of MiFID II / MiFIR. The Commission is now in the final period of decision making regarding ESMA's final draft Regulatory Technical Standards (RTSs). Once implemented, the combined Level 1 and Level 2 requirements will further enhance market transparency for the overall benefit of investors and end-users in European capital markets. Transaction reporting will enable closer and enhanced supervision of markets by regulators.

FIA members ask that the Commission reconsider the mandatory use of International Standards Organisation (ISO) 6166 International Securities Identification Numbers (ISINs) as the sole option for identification for Exchange Traded Derivatives (ETD).

FIA members believe that it would be more beneficial to both regulators and market participants to maintain the current flexibility in ETD identification and allow continued use of other identifiers (such as the Alternative Instrument Identifier (Aii)) *as well as* ISINs for the reasons set out below.

Aii is currently the identifier most commonly used for ETD. The technical specification for this identifier has been in use for a number of years and was agreed by ESMA's predecessor CESR as a solution to problems encountered with ISINs during the implementation of MiFID I. This approach is in line with the representation made to you recently by ISDA and the GFMA who in their letter to you described the use of ISINs as sole option of contract identification as "unworkable", resulting from the different nature of derivatives in relation to transferable securities.

We further believe that prior to the use of a sole identifier being used, the following points need to be addressed:

- the applicability of ISINs to ETD contracts with specific regard to contracts that are created at very short notice: whilst it is understood that ISINs are used in some ETD markets, this represents a small fraction of the total ETD market; and

- the lack of impact analysis regarding the operational burden (including costs) of moving to ISIN as the single permitted identifier: such change would inevitably lead to higher costs for all market participants, for undetermined benefit.

Taking each point in turn:

Applicability

ETD contracts are sometimes required to be created at very short notice given the nature of ETD markets and the ISIN solution may well result in delays in issuing new contracts to a market (e.g. if the ISIN is not promptly issued by the issuing authority), leading to participants being unable to hedge exposure.

Other identifiers do not have this problem, indeed Aii was created to address this particular issue: the Aii identifier is constructed using a concatenation of certain contract specification details and can therefore be created from the contract economics, using the standardized and agreed language of Aii. It does not require a separate issuing authority to issue the identifier.

Impact Analysis

The switch from Aii and other identifiers to ISIN will bring a significant operational and cost burden onto trading venues and market participants that do not currently use ISINs for derivatives. Current estimates are that reportable contracts under MIFID II will rise from 1.5 million to 15 million contracts: an increase of 13.5 million contracts. Should regulators require “series” level of ISINs, as well as individual ISINs, in order to aid identification of different groups of ETDs, the number of ISINs would further increase.

Notably, there are no firm reports available for ISIN costs, but the industry is expecting the cost to be a significant increase relative to the current regime. Ultimately, these costs will be borne by market participants and will be in addition to the (as yet unquantified) cost of system upgrades/re-engineering required to use a new product identifier.

Policy Implications

FIA members also feel strongly that the application of a “one size fits all” approach across all asset class transaction types is not feasible nor fit for purpose.

As you are aware, the purpose of sending transaction reports to competent authorities is to provide them with the raw data necessary to build up a database of trading activity that might be interrogated when unusual activity is detected. The Aii was developed with this in mind, as a standard formula to allow the creation of consistent identifiers which would allow related derivative instruments to be grouped together by decoding their identifiers. Thus, for example, an energy or metals contract would belong to a family of related futures and options that would be evident from the series of elements within its Aii. Whilst ISINs are acceptable for equities because a new issuance of the same security is very limited, they are unsuitable for instruments like ETDs, which by their nature produce

variations and new series. Since the ISIN is randomly generated, unlike Aii and/or other identifiers, the internal logic that allows an Aii to be decoded and used to group related instruments together does not apply, and therefore, the usefulness of an ISIN for searching a database for derivatives trading activity is severely constrained.

ESMA removed the choice of identifier late in the development of RTS 23 and the decision to allow only ISINs was not substantiated by analysis or costings. FIA respectfully requests that any sole chosen identifier be assessed for suitability by consultation with the industry prior to implementation. ESMA's concerns with the continued use of Aii are not clear to the industry. If ESMA were to articulate these concerns, it would provide an opportunity for the industry to address any issues that ESMA may have. Furthermore we are aware that IOSCO is developing a reporting format for OTC derivatives that resembles an Aii significantly more than an ISIN. It would be counter-productive if the Europe Union were to choose a different standard for derivatives to that which is being developed globally.

For the above reasons, FIA recommends that with respect to exchange traded derivatives the Commission continue to permit the flexibility and optionality afforded by the use of alternative identifiers (e.g. Aii) in addition to ISIN.

We would be happy to discuss this further with your team at your earliest convenience or to answer any questions you may have on this topic.

With kind regards,



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